

**OPINION
57-116**

September 25, 1957 (OPINION)

INSTITUTIONS

RE: State Hospital - Care Costs

Your letter of September 23, 1957, enclosing a letter from Russell O. Saxvik, Superintendent of the State Hospital, dated September 18, 1957, requesting information regarding several questions therein contained, has been received by this office.

1. Section 25-0203 as amended by Chapter 196 of the 1957 Session Laws provides:

The state hospital shall receive and care for all mentally ill persons residing within this state who may be committed to its care, in accordance with the provisions of this title, and shall furnish to such mentally ill persons all needed treatment and support which may tend to restore their mental health or to alleviate their illness or suffering."

It is by statute expressly provided not only to "may", but it states "shall" furnish treatment and support which may tend to restore their mental health or alleviate their illness or suffering.

The next question is, who shall pay the cost? The question is answered by the statute, section 25-0208 as amended by Chapter 196 of the 1957 Session Laws. It is there stated: "The state board of administration shall fix the amount to be paid for the care, board, and treatment of patients at the state hospital." And it further states: "The amount chargeable to the county shall not be more than the sum of forty-five dollars per patient per month." By this law the Legislature has fixed the amount of the liability of the counties and we find no law which in any way modifies this statement.

The statute on that point is not ambiguous. The only way we can see that this can be accomplished is by payment of the county of the sum of \$45.00 per month per patient and that the cost above will have to be paid by someone and we find no one to pay it except the state by appropriations by the Legislature for that purpose. But the relatives, as provided by statute, husband, wife, mother, father, son and daughter, if they are financially able, are liable for all those costs. This is found in section 25-0208 as amended by Chapter 196 of the 1957 Session Laws and reads as follows: "Both residents and nonresidents who are financially able to pay for the cost of care and treatment shall at all times pay the actual cost of care, board, and treatment."

2. In the event a pregnant woman is admitted involuntarily, the proper policy is for the state hospital to accept the financial responsibility for all medical care concerned with the pregnancy, but excluding the care of the infant

after its birth. The infant is a ward of the county of the residence of the mother and has the same status as an indigent baby born within said county.

3. By authority of the statute to give the mother treatment, it means proper treatment both before and after the birth of the child.
4. You ask: "Does pregnancy fall within the concept of restoring their mental health or alleviating their illness and suffering?" It is impossible to see how restoring their mental health or alleviating their illness and suffering can be accomplished without proper physical help as well as other treatments, and, therefore, the answer is "Yes."
5. Under the statute we have mentioned, it is the view of this office that the county is not liable for more than \$45.00 per month per patient and this includes treatment needed as well as the other support. But as further stated, the relatives mentioned, namely husband, wife, father, mother, son and daughter are liable for all the costs. See section 25-0209 as amended by Chapter 196 of the 1957 Session Laws.
6. You mention arrangement with private physicians. It is the view of this office that such agreement can only be made by the patient through her guardian; the county from which she came; and the relatives above mentioned who are liable for the costs.
7. Patient is personally responsible for all the costs.
8. With reference to voluntary patient, it is a matter of contract. Sections 25-0302, 25-0303 and 25-0304 as amended by Chapter 196 of the 1957 Session Laws provide for voluntary admittance of alcoholics and provides that before admitting any person as a voluntary patient, whether alcoholic or not, he must agree to pay all hospital expenses incurred by his treatment as provided by said sections. If they are incapable of making such payments, the procedure is set out in section 25-0304 as amended by Chapter 196 of the 1957 Session Laws. There must be some affidavits filed showing such inability and further they must be acted upon by the board of mental health of the county.
9. Section 25-08091 as amended by Chapter 196 of the 1957 Session Laws provides the procedure for exchange of mentally ill or feeble-minded persons.

LESLIE R. BURGUM

Attorney General